

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA,
Plaintiff,

v.

JUAN CARLOS DE LOS SANTOS-CASTILLO,
Defendant.

CRIMINAL NO. 16-813 (JAG)

UNITED STATES' SENTENCING MEMORANDUM

TO THE HONORABLE COURT:

The United States of America, by and through the undersigned attorneys, very respectfully offers this sentencing memorandum and recommendation as to defendant Juan Carlos De los Santos-Castillo.

I. INTRODUCTION

On April 20, 2017, defendant De los Santos-Castillo pled guilty, via “straight plea,” to the sole count of an Indictment charging re-entry of a removed alien, in violation of Title 8, *United States Code*, Section 1326(a)(2).

The United States concurs with the factual findings, criminal history calculation, and offense level computation set forth in the Presentence Report (“PSR”) prepared by the United States Probation Office (“USPO”) in this case and respectfully requests that the Court sentence defendant De los Santos-Castillo to a term of imprisonment for the time that he has already served; 1 year of supervised release and \$100.00 special monetary assessment. This proposed sentence is sufficient, but not greater than necessary, to comply with the mandates of Title 18, *United States Code*, Section 3553(a).

II. FACTUAL BACKGROUND

During the morning hours of December 12, 2016, the Puerto Rico Police Department (PRPD) contacted HSI regarding four (4) individuals that were rescued by the PRPD while they were in the water between the area of Loiza and Rio Grande, Puerto Rico, because the boat had mechanical failures.

The individuals were taken to the PRPD Precinct in Loiza, Puerto Rico, to be interview for a possible contraband smuggling venture. HSI agent arrived to the Police Station to interview the individuals to determine alienage. Defendant De los Santos-Castillo was one of the individuals that was identified as being illegally present in the United States.

During the administrative immigration processing, defendant De los Santos Castillo stated that, on or about November 16, 2016, he departed from the Dominican Republic to Puerto Rico, on board a vessel, with other migrants from the Dominican Republic. According to the defendant, he arranged to be transported and smuggled into Puerto Rico.

Defendant De los Santos-Castillo's fingerprints were submitted through a law enforcement database where a positive match with the FBI fingerprint database was obtained revealing the following immigration history:

- a) On September 30, 2005, defendant De los Santos-Castillo was administratively charged under section 212(a)(6)(A)(i) of the Immigration and Nationality Act, (as amended, in that an alien is present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General);
- b) On December 6, 2005, an Immigration Judge granted defendant De los Santos-Castillo a Voluntary Return to the Dominican Republic;

- c) In March 2006, an Order of Removal became effective against defendant De los Santos-Castillo due to his failure of voluntarily depart the United States;
- d) On July 02, 2016, TSA officers at the Luis Muñoz-Marín International Airport encountered defendant De los Santos-Castillo while accompanying his son to board Jet Blue flight destined to Florida. He claimed to be a Dominican National and admitted having entered into the United States illegally and without inspection on or about December 17, 2002, by yawl. Defendant De los Santos-Castillo also admitted to have never left the United States, therefore, violating the removal order against him;
- e) On July 2, 2016, defendant De los Santos-Castillo was physically removed from the United States.

On December 13, 2016, defendant De los Santos-Castillo was arrested after having been found in the United States without obtaining the express consent from the Attorney General of the United States, or his successor, the Secretary of Homeland Security to reenter the United States following his prior removal orders and subsequent to a conviction for commission of an aggravated felony. CBP authorities arrested him on August 21, 2017.

III. PRE-SENTENCE REPORT (PSR) RECOMMENDATION AND ARGUMENT

According to the PSR offense level computation, the total offense level is 6 with a criminal history category of I, which yields a sentencing guideline range of imprisonment of **0 to 6 months**. Count One carries a statutory maximum term of imprisonment of 2 years.

The United States recognizes that since *United States v. Booker*, 543 U.S. 220 (2005), the Sentencing Guidelines are advisory rather than statutorily mandated. However, when imposing a sentence, the Court is required to consider the guidelines, but must fashion a sentence that is consistent with the factors detailed in Title 18, *United States Code*, Section 3553(a).

The United States contends that a sentence for the time he has already served, followed by 1 year of supervised release and the imposition of payment of \$100.00 as special monetary assessment is reasonable and appropriate in light of the factors set forth in Title 18, *United States Code*, Section 3553(a) as it would reflect the seriousness of defendant De los Santos-Castillo's criminal conduct, promote respect for the law, and provide just punishment for the crime to which the defendant stands convicted.

WHEREFORE, the United States respectfully requests that this Honorable Court take notice of the above and rule accordingly.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, on this 23rd day of August 2018.

ROSA EMILIA RODRIGUEZ-VELEZ
UNITED STATES ATTORNEY

s/ Elba Gorbea
ELBA GORBEA
Assistant United States Attorney
USDC-No. 224014
United States Attorney's Office
Torre Chardón Bldg., Suite 1201
350 C. Chardón Street
San Juan, Puerto Rico 00918
Tel: 787.766.5656

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to counsel for the defendant.

s/ Elba Gorbea
ELBA GORBEA
Assistant United States Attorney
USDC-No. 224014